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COURT OF APPEALS
DIVISION ONE

APR - 7 2006

COURT OF APPEALS
THE STATE OF WASHINGTON
DIVISION I

DAVID J. JENKINS,

Respondent,

v.

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES,

Appellant.

No. 574116

RESPONDENT'S MOTION
TO INCLUDE COPIES OF
EXCERPTS FROM FEDERAL
AGENCY GUIDANCE IN
APPENDIX TO BRIEF

1. Identity of Moving Party

Respondent, David J. Jenkins.

2. Statement of Relief Sought

Respondent seeks permission pursuant to RAP 10.3(a)(7), to include Appendix to the Brief of Respondent to include two pages from the Federal Guidance Document on Medicaid Waivers. The document can be downloaded from the Internet website of the Centers for Medicare and Medicaid (CMS), the federal agency charged with oversight of the Medicaid programs. On February 21, 2006, Appellant made a similar request to include pages from this documents, which was granted by this Court on February 23, 2006.

MOTION TO FILE OVER-LENGTH BRIEF - 1

ORIGINAL

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STATE OF WASHINGTON
2006 APR - 7 PM 3:30

4-20-06
Respondent's motion
to include copies of excerpts
from federal agency guidance
is paired to the panel that
considered the appeal in the merits.

78652-6

3. Facts Relevant to the Motion

This case involves an appeal by Appellant concerning the trial court's invalidation of two agency rules, one of which involves the Medicaid COPES program. The documents relate to the application of the Medicaid COPES program, and are necessary given that Appellant has already received permission to attach pages from this new 315-page document. The documents are necessary for explaining information relevant to the Medicaid COPES waiver program, and in response to Appellant's use of the same documents.

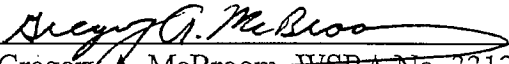
4. Grounds for Relief and Argument

Appellant has already received permission to append the record with some of pages from the same document. Respondent requests that this Court grant it similar consideration, given that the materials are being used in response to Appellant's use of the same documentary materials.

5. Conclusion

For the reasons stated, Respondent request permission to include two pages from the Federal Guidance Document on Waivers, which will be filed with the Brief of Respondent contemporaneously with this motion (Appendices 2 and 3 in Brief of Respondent).

RESPECTFULLY SUBMITTED this 7th day of April, 2006.


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Rajiv Nagaich, WSBA No. 32991
Attorneys for Respondent
David J. Jenkins

MOTION TO FILE OVER-LENGTH BRIEF - 3

RICHARD D. JOHNSON,
Court Administrator/Clerk

The Court of Appeals
of the
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Seattle
98101-4170

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April 20, 2006

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CASE #: 57411-6-I
David J. Jenkins, Res. v. State of WA., DSHS, App.

Counsel:

The following notation ruling by Richard D. Johnson, Court Administrator/Clerk of the Court was entered on April 20, 2006, regarding respondent's motion to include copies of excerpts from Federal Agency Guidance in Appendix to Brief:

Respondent's motion to include copies of excerpts from federal agency guidance is passed to the panel that considers the appeal on the merits.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

khn